

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

##### SECTION 23-24.10-1

**§ 23-24.10-1 Purpose.** – The purposes of this act are:

- (1) To establish a manufacturer financed system for the collection, recycling, and reuse program for covered electronic products in Rhode Island;
- (2) To develop a comprehensive strategy, with the participation of state agencies, producers, processors and consumers, for waste prevention and reduction of covered electronic products in the state, which addresses the collection, recycling and reuse of covered electronic products from all covered electronic product generators in the state and that ensures the safe and environmentally sound handling, reuse and recycling of covered electronic products;
- (3) To promote the development of state infrastructure for the reuse and recycling of used electronics;
- (4) To eliminate waste generated in the state from covered electronic products from landfill and incinerator disposal; and
- (5) To encourage the design of covered electronic products that are less toxic, more durable and more recyclable.

History of Section.

(P.L. 2006, ch. 365, § 1; P.L. 2006, ch. 447, § 1; P.L. 2008, ch. 105, § 1; P.L. 2008, ch. 126, § 1.)

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##### SECTION 23-24.10-2

**§ 23-24.10-2 Findings.** – (a) The general assembly finds televisions, computers and other electronics are omnipresent in modern society, and the number of obsolete, worn-out or otherwise used televisions, computers and other electronic products are increasing;

(b) Used televisions and computers contain lead, mercury and other hazardous substances that pose a threat to human health and the environment if improperly disposed of at the end of their useful life;

(c) Cathode ray tubes are estimated to be the largest current source of lead in the state's municipal solid waste stream;

(d) Many flat-panel-display televisions, computer monitors and laptop computers contain a mercury-containing lamp for backlighting purposes;

(e) The reuse, repair and recycling of televisions and computers protect public health and the environment by reducing the potential for the release of heavy metals and mercury from landfills and municipal waste combustors into the environment, provide jobs and business opportunities for state residents, recover valuable components and materials, reduce energy consumption, air and water pollution and greenhouse gas emissions, and conserve valuable landfill space;

(f) The state of Rhode Island has an interest in resource conservation, waste minimization, landfill capacity management, pollution prevention, job creation and recycling;

(g) The Rhode Island mercury reduction and education commission recommended that electronic waste be banned from disposal as solid waste, be managed through recycling or as hazardous waste, and be handled in a manner consistent with products covered by the Mercury Reduction and Education Act;

(h) The commission also recommended that a system of producer responsibility for the collection and recycling of covered electronic devices is the most effective and equitable means of keeping this toxic waste out of landfills, alleviating the full financial and physical burden placed on the state and municipal governments for handling e-waste, while also providing a powerful incentive for manufacturers to reduce toxins and redesign products for recycling; and

(i) The general assembly finds that the establishment of a comprehensive system to provide for the collection, reuse and recycling of electronic products in this state is consistent with its duty to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources, prevent air, water and land pollution and stimulate economic growth.

History of Section.

(P.L. 2006, ch. 365, § 1; P.L. 2006, ch. 447, § 1.)

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##### SECTION 23-24.10-3

§ 23-24.10-3 **Definitions.** – For the purposes of this chapter:

(1) "Department" means the department of environmental management.

(2) "Covered electronic products" means:

(i) Computers (including central processing unit or CPU) as defined herein

(ii) Computer monitors, including CRT monitors and flat panel monitors;

(iii) Combination units (CPUs with monitors);

(iv) Televisions including CRT-based and non-CRT-based televisions, plasma and LCD, or any similar video display device with a screen greater than nine (9) inches diagonally and that contains a circuit board; and

(v) "Covered electronic products" does not mean a computer, television or video display device that is: (a) a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; or (b) functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, (including diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act) or equipment used for security, sensing, monitoring, or anti-terrorism purposes; or (c) contained within a home appliance, clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (d) a handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.3, or (e) a printer as defined in subsection (ii) herein.

(3) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the federal government or any agency or subdivision thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.

(4) "Computer" often referred to as a "personal computer" or "PC", means a desktop or notebook computer as further defined below, but does not mean an automated typewriter, electronic printer, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. "Computer" does not include computer peripherals, commonly known as cables, mouse, or keyboard; computer servers marketed to professional users; or retail store terminals or cash registers,

used at customer checkout in the retail industry. "Computer" is further defined to include:

(i) "Desktop Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, and which is not designed to exclusively perform a specific type of logical, arithmetic or storage function or other limited or specialized application. Human interface with a desktop computer is achieved through a standalone keyboard, standalone monitor or other display unit, and a standalone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer does not include an automated typewriter or typesetter; or

(ii) "Notebook computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, and which is not designed to exclusively perform a specific type of logical, arithmetic or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than nine inches (9") in size, and mouse or other pointing device, all of which are contained within the construction of the unit which comprises the notebook computer; supplemental standalone interface devices typically can also be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable handheld calculator, or a portable digital assistant or similar specialized device. A notebook computer has an incorporated video display greater than nine inches (9") in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer.

(5) "Corporation" means the Rhode Island resource recovery corporation created and established pursuant to chapter 23-19 of the Rhode Island general laws.

(6) "Manufacturer" means a person or entity who:

(i) Has a physical presence and legal assets in the United States of America; and

(A) Manufactures or manufactured a covered electronic product under a brand it owns; or is or was licensed to use;

(B) Sells or sold under a brand or label it owns or is or was licensed to use a covered electronic product produced by other suppliers; or

(C) Assumes the financial responsibility of manufacturer collection, transportation or recycling as further defined herein; or

(D) Imports or imported a covered electronic product into the United States that is manufactured by a person without a presence in the United States; or

(E) Sells at retail a covered electronic product acquired from an importer that is the manufacturer as described in subsection (b) herein, and elects to register in lieu of the importer.

(7) "Market share" means a television manufacturers' national sales of televisions expressed as a percentage of the total of all television manufacturers' national sales based on the best available public data.

(8) "Monitor" means a video display device without a tuner that can display pictures and sound and is used with a computer.

(9) "Orphan waste" means a covered electronic product, except a television, for which no manufacturer can be identified or the manufacturer is no longer a business and no successor business can be identified.

(10) "Premium service" means services such as at-location system upgrade services and at-home pickup services, including curbside pickup service.

(11) "Printer" means desktop printers, multifunction printer copiers, and printer ax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-standalone printers that are embedded into products that are not covered electronic products.

(12) "Retailer" means a person or entity who sells a covered electronic product in the state to a consumer, "Retailer" includes, but is not limited to, a manufacturer of a covered electronic product who sells directly to a consumer through any means, including, but not limited to, transactions conducted through sales outlets, catalogs or the Internet, or any similar electronic means, but not including leasing, commercial financing or wholesale transactions with a distributor or other retailer.

(13) "Return share" means the minimum percentage of covered electronic products, except televisions, that an individual manufacturer is responsible for collecting, transporting and recycling.

(14) "Return share by weight" means the minimum total weight of covered electronic products, except televisions, that an individual manufacturer is responsible for collecting, transporting and recycling.

(15) "Television" means any telecommunication system device that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

(16) "Video display devices" means and includes units capable of presenting images electronically on a screen, with a viewable area greater than nine inches (9") when measured diagonally, viewed by the user and may include cathode ray tubes, flat panel computer monitors, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that exist or may be developed.

(17) "State program" means a statewide program for collecting, transporting and recycling covered electronic products that is provided by the resource recovery corporation for manufacturers who pay a recycling fee.

(18) "Manufacturer program" means a statewide program for collecting, transporting, and recycling

covered electronic products that is provided by the manufacturer.

(19) "Program Year" means January 1 through December 31, also referred to as "calendar year".

(20) "Collector" means a public or private entity that receives covered electronic devices and arranges for the delivery of the devices to a recycler.

(21) "Recycler" means a public or private individual or entity who accepts covered electronic devices directly from the public or from collectors for the purpose of recycling. A manufacturer who takes products solely for refurbishment or repair is not a recycler. A recycler may also be a collector if it meets the definition of a collector.

History of Section.

(P.L. 2006, ch. 365, § 1; P.L. 2006, ch. 447, § 1; P.L. 2008, ch. 105, § 1; P.L. 2008, ch. 126, § 1; P.L. 2010, ch. 122, § 1.)

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#### SECTION 23-24.10-4

**§ 23-24.10-4 Scope of products covered.** – The scope of products is the same as "covered electronic products" and includes products from covered electronic product generators. The department is hereby authorized to modify the scope of products through regulations.

History of Section.

(P.L. 2006, ch. 365, § 1; P.L. 2006, ch. 447, § 1.)

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##### SECTION 23-24.10-5

**§ 23-24.10-5 Disposal ban.** – (1) After January 31, 2009, no person shall dispose of any of the covered electronic products in a manner other than by recycling or disposal as hazardous waste.

(2) This ban on disposal shall apply to whole units of covered electronic products, as well as to the constituent subunits and materials from which the units are made.

(3) No solid waste landfill or transfer station regulated pursuant to chapter 23-18.9 shall accept any covered electronic products for the purposes of disposal after January 31, 2009. All solid waste landfills and transfer stations regulated pursuant to chapter 23-18.9 shall establish procedures to promote segregation of covered electronic products from the waste stream, shall document those procedures in the facility operating plan, and shall implement those procedures as part of the operation of the facility.

History of Section.

(P.L. 2006, ch. 365, § 1; P.L. 2006, ch. 447, § 1; P.L. 2008, ch. 187, § 1; P.L. 2008, ch. 475, § 68.)

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##### SECTION 23-24.10-6

**§ 23-24.10-6 Manufacturer individual financial responsibility.** – (a) On the effective date of this section, for covered electronic products other than televisions, manufacturers have individual financial responsibility for the collection, transportation and recycling of their covered electronic products and orphan waste which have been discarded by households or public and private elementary and secondary schools in Rhode Island, including their return share of orphan waste.

(b) On the effective date of this section, for televisions, each television manufacturer has financial responsibility for the collection, transportation and recycling of televisions, which have been discarded by households or public and private elementary and secondary schools in Rhode Island, based on the television manufacturer's market share.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

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##### SECTION 23-24.10-7

**§ 23-24.10-7 Sales and labor prohibitions.** – (a) A manufacturer not in compliance with all financial and other requirements of this chapter is prohibited from offering a covered electronic product for sale in this state.

(b) It shall be unlawful for any retailer and/or manufacturer to offer for sale in this state a new covered electronic product from a manufacturer that is not in full compliance with the requirements of this chapter. The department shall maintain a list of all manufacturers in compliance with the requirements of this chapter and post the list on an Internet website. Retailers of products in or into the state shall consult the list prior to selling covered electronic products in this state. A retailer shall be considered to have complied with this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website. All manufacturers will be considered in compliance with the purposes of this section until the department publishes the first requirements of this chapter for the listing.

(c) It shall be unlawful for facilities that recycle covered electronic products, including all downstream recycling operations, to use prison labor to recycle covered electronic products.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

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##### SECTION 23-24.10-8

**§ 23-24.10-8 Labeling and registration requirements.** – (a) On and after the effective date of this section, a manufacturer or retailer may not sell or offer for sale a covered electronic product in the state unless it is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

*(b) Registration.* Before January 1 of each year, a manufacturer of covered electronic products sold or offered for sale in this state shall register with the department for a period to cover the upcoming calendar year, on a form provided by the department. The registration shall include:

(1) A list of all the brands manufactured, sold or imported by the manufacturer, including those brands being offered for sale in this state by the manufacturer;

(2) A statement of whether the manufacturer will be implementing a manufacturer program or utilizing the state program for recycling covered electronic products; and

(3) Any other information required by the department to implement this chapter.

*(c)* By January 1, 2009, each manufacturer of new covered electronic products offered for sale for delivery in this state shall register with the department and pay to the department a registration fee of five thousand dollars (\$5,000). Thereafter, if a manufacturer has not previously filed a registration, the manufacturer shall file a registration with the department prior to any offer for sale for delivery in this state of the manufacturer's new covered electronic products and shall pay to the department a registration fee of five thousand dollars (\$5,000). Any manufacturer to whom the department provides notification of a return share, return share in weight or market share pursuant to subsections 23-24.10-12(d) and (e) and who has not previously filed a registration shall, within thirty (30) days of receiving such notification, file a registration with the department and shall pay to the department a registration fee of five thousand dollars (\$5,000).

(1) Each registered manufacturer shall submit an annual renewal of its registration to the department and pay to the department a registration fee of five thousand dollars (\$5,000) by December 15 prior to the start of each program year.

(2) The registration and each annual renewal shall include a list of all of the manufacturer's brands of covered electronic products and shall be effective upon receipt by the department.

(3) All registration fees collected by the department shall be deposited in the environmental response fund established pursuant to Rhode Island general laws § 23-19.1-23.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3; P.L. 2010, ch. 122, § 1.)

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#### SECTION 23-24.10-9

**§ 23-24.10-9 Manufacturer responsibility.** – (a) A manufacturer choosing to implement a manufacturer program shall submit a plan to the department at the time of payment of the annual registration fee required under subsection 23-24.10-8(c).

(b) The manufacturer's plan must describe how the manufacturer will:

(1) Finance, manage and conduct a statewide program to collect covered electronic products from households and public and private elementary and secondary schools in this state;

(2) Provide for environmentally sound management practices to collect, transport and recycle covered electronic products;

(3) Provide for advertising and promotion of collection opportunities statewide and on a regular basis; and

(4) *Include convenient service statewide.* Collection sites shall be staffed and open to the public at a frequency adequate to meet the needs of the area being served. A program may provide collection service jointly with another program and may include, but not be limited to, mail back programs and collection events.

(c) The plan shall include a statement disclosing whether: (1) any video display devices sold in Rhode Island exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated diphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) directive 2002/95/EC of the European parliament and council and any amendments there to enacted as of the date; or (2) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS directive that has been approved and published by the European commission.

(d) A manufacturer choosing to implement a manufacturer program shall:

(1) Provide for collection, transportation and recycling of covered electronic products from households and public and private elementary and secondary schools free of charge and a manufacturer that provides premium service for a person may charge for the additional cost of that premium service.

(2) Implement the plan and provide a report to the department no later than February 1 of each year that details how the plan required under this section was implemented during the previous calendar year.

(3) Conduct a statistically significant sampling or actual count of the covered electronic products collected and recycled by the manufacturer each calendar year using a methodology approved by the department. The manufacturer shall report the results of the sampling or count to the department no later than January 1 of the following calendar year. For all manufacturers, excluding televisions manufactured, the report must include:

- (i) A list of all brands identified during the sampling or count by the manufacturer;
  - (ii) The weight of covered electronic products identified for each brand during the sampling or count; and
  - (iii) The total weight of covered electronic products, including orphan waste if applicable, collected from households and public and private elementary and secondary schools in the state by the manufacturer during the previous calendar year.
- (e) A group of manufacturers, except television manufacturers, may choose to implement a manufacturer program as one entity, if in doing so the manufacturers meet the sum of their individual return shares by weight under subsection 23-24.10-12(d) and that sum is at least five percent (5%). A group of television manufacturers may choose to implement a manufacturer program as one entity, if in doing so the manufacturers meet the sum of their individual market shares under subsection 23-24.10-12(d).
- (f) By February 1 of each year, a manufacturer that does not meet its share for the previous calendar year shall pay the corporation for the amount not achieved at a rate determined by the department to be equivalent to the amount the manufacturer would have paid as defined under subsection 23-24.10-11(d) plus ten percent (10%) to be paid to the department, and which shall be the per ton fee for the prior year multiplied by the manufacturer's return share as established prior to the start of the program year.
- (g) A manufacturer, except a television manufacturer, with less than a five percent (5%) return share is required to participate in the state program under § 23-24.10-11. A television manufacturer that does not have an approved manufacturer's plan shall participate in the state program under § 23-24.10-11.
- (h) A manufacturer participating in the state program under § 23-24.10-11 shall notify the department at the time of its registration each year.
- (i) By February 1 of each year, a manufacturer that participates in the state program shall pay a recycling fee to the corporation in an amount adopted by the department under § 23-24.10-12 to cover the costs of collecting, transporting and recycling the manufacturer's annual share of covered electronic products for the following year.
- (j) A manufacturer program, the state program or a collector participating in a manufacturer program or the state program may not charge a fee to households or public and private elementary and secondary schools for the collection, transportation or recycling of those covered electronic products.
- (2) A collector that provides a premium service to a person may charge for the additional cost of providing the premium service.

#### History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3; P.L. 2010, ch. 122, § 1.)

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##### SECTION 23-24.10-10

**§ 23-24.10-10 Retailer responsibility.** – (a) A retailer may not sell or offer for sale any covered electronic product in or for delivery into this state unless:

(1) The covered electronic product is labeled with a brand and the label is permanently affixed and readily visible;

(2) The brand is included on the list posted by the department; and

(3) The list posted by the department specifies that the manufacturer is in compliance with the requirements of this chapter. All manufacturers will be considered in compliance with the requirements of this chapter for the purposes of this section until the department publishes the first listing.

(b) A retailer shall provide to a consumer at the time of the sale of a covered electronic product information from the department's website that provides details about where and how a consumer can recycle covered electronic products in Rhode Island. Information shall also be made available in printable form for Internet sales and other sales where the Internet is involved.

(c) On or after January 1, 2009, a retailer who sells or offers for sale a new covered electronic product must, before the initial offer for sale, review the department's website to determine that all new covered electronic products that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the department.

(d) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of the covered electronic product prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within three (3) months after the expiration or revocation.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

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##### SECTION 23-24.10-10.1

**§ 23-24.10-10.1 Collector and recycler responsibility.** – (a) *Collector's registration.* After July 31, 2010, no person or entity may operate as a collector of covered electronic devices unless that person or entity has submitted a registration with the department on a form prescribed by the director. Registration information must include the name, address, telephone number, and location of the business, and a certification that the collector has complied and will continue to comply with the requirements of this chapter and with all program rules and regulations promulgated by the department and the corporation. A registration is effective upon receipt by the department and is valid until December 31 of each year. Collectors must register annually with the department.

(b) *Recycler's registration.* After July 31, 2010, no person or entity may recycle covered electronic devices unless that person has submitted a registration with the department on a form prescribed by the director. Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive covered electronic devices, and a certification that the recycler has complied and will continue to comply with the requirements of this chapter and with all program rules and regulations promulgated by the department and the corporation. A registered recycler may conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until December 31 of each year. Recyclers must register annually with the department.

(c) Nothing in this section shall be deemed to circumvent the department's existing authority under Rhode Island general laws chapter 23-19.1 or regulations promulgated thereto.

History of Section.  
(P.L. 2010, ch. 122, § 2.)

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#### SECTION 23-24.10-11

**§ 23-24.10-11 Rhode Island resource recovery corporation responsibility.** – (a) The corporation shall establish a state program for the collection, transportation and recycling of covered electronic products from households and public and private elementary and secondary schools in this state. The state program shall be fully funded through the recycling fees as defined in subsection (d) herein. The corporation shall submit a plan to the department for review and approval that will:

- (1) To the extent practicable, use existing local collection, transportation and recycling infrastructure;
- (2) Use environmentally sound management practices as defined under subsection 23-24.10-12(i) to collect, transport and recycle covered electronic products;
- (3) Provide for households and public and private elementary and secondary schools convenient and available collection services and sites for covered electronic products in each county of this state and collection services shall be free of charge for households and public and private elementary and secondary schools;
- (4) Advertise and promote collection opportunities statewide and on a regular basis; and
- (5) Conduct a statistically significant sampling or actual count of the covered electronic products collected and recycled by the state program during each calendar year using a methodology approved by the department and prepare a report no later than March 1 of the following calendar year that includes but is not limited to:
  - (i) A list of all brands identified during the count;
  - (ii) The weight of covered electronic products, except televisions, identified for each brand during the count; and
  - (iii) The total weight of covered electronic products, including orphan waste if applicable, collected from households and public and private elementary and secondary schools in the state by the state program during the previous calendar year.
- (6) Maintain on its website information on collection opportunities for covered electronic products, including collection site locations and hours. The information must be made available in a printable format for retailers.

(b) *Covered electronic products account fund.* The corporation shall create the covered electronic products account fund ("the fund"). Interest earned by the account shall be credited to the account. Fees

collected by the corporation under subsection (c) below shall be deposited in the covered electronic products account fund. Moneys in the account are to be used only to pay the costs of implementing this chapter and enforcing the disposal ban in § 23-24.10-5. The corporation shall audit the fund each year, and surpluses are to be credited on a pro rata basis to those manufacturers paying fees into and for the program year in which a surplus is generated, while deficits in the fund shall be applied to the adjusted recycling fee in the second program year following the audited program year.

(c) The corporation shall determine the return share and return share by weight for each calendar year for each manufacturer, except television manufacturers. The return share shall be determined by dividing the total weight of covered electronic products of that manufacturer's brands by the total weight of covered electronic products for all manufacturers' brands. The return share by weight shall be determined by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic products, including orphan waste, collected from households and public and private elementary and secondary schools the previous calendar year.

(1) For 2009 and 2010, determine the return share and return share by weight for each manufacturer, except television manufacturers, based on the best available public return share data and public weight data from within the United States for covered electronic products from households and public and private elementary and secondary schools. For subsequent years, the return share of covered electronic products for each manufacturer shall be based on the most recent annual sampling or count of covered electronic products. For subsequent years, the total weight in pounds of covered electronic products shall be based on the total weight of covered electronic products, including orphan waste, determined by the department.

(2) Determine the market share for each television manufacturer in accordance with subsection 23-24.10-3(7).

(3) The corporation shall present the proposed return or market shares for each manufacturer to the department for review and approval on an annual basis by November 1 of each year.

(d) Determine the recycling fee to be paid by each manufacturer that participates in the state program established pursuant to this section. The corporation shall determine the recycling fees as follows:

(1) For each manufacturer, except television manufacturers, the corporation shall determine the recycling fee based on the manufacturer's annual return share and return share by weight as determined under subsection (c) of this section. The fee shall be calculated on a per pound basis and shall not exceed fifty cents (\$.50) per pound.

(2) By November 1 of each year, the corporation shall set the cost per pound for collection, transportation, and recycling of covered electronic products, except televisions, in order to reasonably approximate market costs for these services, which cost per pound is used to calculate the fee. The corporation may adjust such cost per pound in order to reasonably approximate market costs for the collection, transportation, and recycling of covered electronic products. Any deficits generated by the state program shall be applied to the recycling fee calculation for and in the second program year following the audited program year.

(3) By November 1 of each year, for each television manufacturer that participates in the state program the corporation shall determine, by regulation, the recycling fee based on a television manufacturer's market share.

(4) The corporation shall present the proposed recycling fees and any adjusted recycling fees for each manufacturer to the department for review and approval.

*(e) Regulatory authority.* The corporation may adopt such regulations as shall be necessary to implement the provisions of this chapter.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3; P.L. 2010, ch. 122, § 1.)

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##### SECTION 23-24.10-12

**§ 23-24.10-12 Department responsibility.** – The department shall:

(a) By January 1, 2009, maintain and make available on its website the following lists, which must be updated by the first day of each month:

- (1) A list of registered manufacturers and their brands;
- (2) A list of brands for which no manufacturer has registered; and
- (3) A list that identifies which manufacturers are in compliance with this chapter.

(b) Review and approve manufacturer plans that comply with this chapter and are submitted annually by manufacturers choosing to implement a manufacturer program for recycling covered electronic products.

(c) Review and approve the corporation's plan as established by § 23-24.10-11.

(d) Review and adopt the return share and return share by weight for all manufacturers, except television manufacturers, for the following year as determined by the corporation pursuant to § 23-24.10-11. The department shall review and adopt the market share for all television manufacturers for the following year as determined by the corporation pursuant to § 23-24.10-11.

(e) By January 1 of each year, notify each manufacturer that had a return share determined under § 23-24.10-11 its return share and its return share by weight for the following year. By January 1 of each year, notify each television manufacturer that had a market share determined under § 23-24.10-11 its market share for the following year.

(f) Review and adopt the recycling fee for all manufacturers as determined by the corporation pursuant to § 23-24.10-11.

(g) By November 1 prior to the program year for which a revised cost per pound is to be used in accordance with the provisions of § 23-24.10-11 the department shall notify all registered manufacturers of the revised cost per pound.

(h) Report biennially to the general assembly on the operation of the statewide system for collection, transportation and recycling of covered electronic products.

(i) *Environmentally sound recycling and reuse.* The department shall develop and adopt regulations no

later than January 30, 2009 to define environmentally sound recycling and reuse practices for the manufacturers' plans and the state program. These regulations will apply to collectors, transporters, and processors, and should ensure that all their downstream vendors comply with all local, state, and federal regulations, and must not violate laws in importing and transit countries when exporting environmentally sensitive materials throughout final disposition.

*(j) Regulatory authority.* The department may adopt such regulations as shall be necessary to implement the provisions of this chapter and may include exemptions from provisions of this chapter as deemed appropriate by the department.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3; P.L. 2010, ch. 122, § 1.)

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

##### SECTION 23-24.10-13

**§ 23-24.10-13 State procurement.** – (a) No later than January 1, 2009, all state agencies shall meet at least ninety-five percent (95%) of their annual purchasing requirements with electronic products registered to the Electronic Product Environmental Assessment Tool (EPEAT) unless there is no EPEAT standard for such product.

(b) All vendors of electronic products to the state shall provide take-back and management services for their products at the end of life of those products and must be in compliance with all the requirements of this section. Vendors shall provide assurances that all take-back and management services will operate in compliance with all applicable environmental laws. Purchasing preference must be given to electronic products that incorporate design for the preservation of the environment.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

#### SECTION 23-24.10-14

**§ 23-24.10-14 Multistate implementation.** – The department and the corporation are authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

#### SECTION 23-24.10-15

**§ 23-24.10-15 Limitations.** – If a federal law or combination of federal laws take effect that is applicable to all covered electronic products sold in the United States and establishes a program for the collection and recycling or reuse of covered electronic products, the department shall evaluate whether such laws provide a solution that is equal to or better than the program created by this act. The department shall report its findings back to the legislature.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

#### SECTION 23-24.10-16

**§ 23-24.10-16 Violations.** – A violation of any of the provisions of this law or any rule or regulation promulgated pursuant thereto shall be punishable, in the case of a first violation, by a civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further violation, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)

# TITLE 23

## Health and Safety

### CHAPTER 23-24.10

#### Electronic Waste Prevention, Reuse and Recycling Act

#### SECTION 23-24.10-17

**§ 23-24.10-17 Severability.** – The provisions of this chapter shall be severable, and if any part of this chapter is declared to be invalid or void by a court of competent jurisdiction, the remaining portion shall not be affected but shall remain in full force and effect and shall be construed to be the entire chapter.

History of Section.

(P.L. 2008, ch. 105, § 3; P.L. 2008, ch. 126, § 3.)